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Approved For Release 2001/08/28 : CIA-RDP78S-04718A000500130027-5

OGC Has Reviewed

APPENDIX B

Relationship of the General Counsel's Office to the

25X1A

[REDACTED]

25X1A

The [REDACTED] case became a clear-cut legal issue when the Department of Justice convened a grand jury and requested the appearance of the CIA witnesses. General Counsel was not consulted until a meeting in June at which a member of the Legal Staff was instructed to proceed to [REDACTED] in order to cooperate with the U. S. Attorney and to inform the CIA witnesses that they were to testify before the grand jury. These were stated to be orders from higher authority and were carried out. The grand jury brought a true bill and the Department of Justice indicted [REDACTED] on two counts, the first involving his relations with the Central Intelligence Agency.

25X1A

In July on two occasions I spoke briefly to the Deputy Director of Central Intelligence as to whether steps could be taken to eliminate involvement of CIA in the trial. I was informed that negotiations to this effect were being undertaken. In early September I was informed that negotiations with the Department of Justice had been unsuccessful in eliminating CIA from the indictment and that I would have to proceed to [REDACTED] to handle the situation as it arose in Court.

25X1A

In August the Assistant Director for Operations asked my opinion whether it would be possible to withdraw the witnesses from [REDACTED] before they were subpoenaed so that they would be outside the jurisdiction of the Court. I stated to him that although we could well be accused by the Department of Justice of obstructing justice, withdrawal would, in my opinion, be preferable to allowing our employees to be subpoenaed and brought before the Court during the trial. This proposal of the AD/00 was not carried out.

25X1A

I asked my staff to prepare a memorandum of law on the situation. This memorandum produced strong authority in support of a claim of privilege by the Agency in proper circumstances, but the stated opinion of the Legal Staff was that under no circumstances should this claim be tested in a situation where the executive agency concerned was not supported by the Department of Justice as there could well be a claim of waiver of the privilege. Based on this I asked the Deputy Director/Intelligence, by whom I had been briefed on my mission in [REDACTED] whether any further action were possible with the Department of Justice or otherwise to eliminate CIA from the trial. He stated that further steps were being taken and I would be informed on reaching [REDACTED]. The Deputy Director,

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Intelligence informed me by phone of successive negotiations which did not succeed in extricating CIA, and then himself came to [redacted] to partake in negotiations with the Special Prosecutor in the case and later to help in the preparation of the memorandum of law supporting the claim of privilege which was submitted to the Court.

25X1A

25X1A

Further negotiations with Justice by the Inspector General attempted to salvage the situation after the witnesses were in contempt by having Justice instruct [redacted] to move for withdrawal of his questions to the witnesses and to dismiss that part of the indictment relating to CIA. The Inspector General then arranged for further liaison to be handled by the Legal Staff.

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